

### **Remarks and Arguments**

Claims 1-23 are pending in this application. Claims 1, 4, 8 and 13 have been amended to more particularly point out the invention. Support for the amendments is found throughout the specification, for example support for the amendment to claim 1 is found in figures 1-6 and on page 14, lines 3-18; support for the amendment to claims 4 and 8 is found on page 14, lines 3-18; support for the amendment to claim 13 is found on page 13, lines 19-25. New claim 24 has been added to more particularly point out the invention. Support for the new claim can be found in the claims as originally filed; in figures 1-6 and in the specification on page 5, lines 4-10.

Applicants gratefully acknowledges that claim 23 has been found to be free of the art and in condition for allowance.

#### **35 U.S.C. § 112**

Claims 13-15 stand rejected under 35 U.S.C. § 112 as allegedly indefinite because the Office believes that claim 13 recites the limitation of the base comprising an outer peripheral flange and a side wall which together form a peripheral groove, wherein a portion of the flange contacts a slot formed in the collar. The Office believes, however, that Figure 8 shows the outer peripheral flange in contact with the skirt of the collar and not contacting the slot of the collar and thus concludes the claim is indefinite. Without acquiescing in the rejection, and for the sole purpose of expediting prosecution, Applicants have amended claim 13 to recite a portion of a gasket, instead of a flange. Applicants believe the amendment obviates the rejection.

#### **35 U.S.C. § 102**

Claims 1-3, 5-8, 11, 12 and 16-21 stand rejected as allegedly anticipated by Moring.

The standard for anticipation under 35 U.S.C. § 102 requires that each and every element as set forth in the claim be found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir.1987). "The identical invention must be shown

in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Amended Claim 1 recites in part: a first sample processing device, which is uncovered. Applicants do not believe that Moring discloses a first sample processing device, which is uncovered. Accordingly, the reference is not anticipatory and Applicants request withdrawal of the rejection of claim 1 and its dependencies, claims 2-3, 5-8 and 11-12.

Turning to claim 16, Applicants note that the Office has maintained the rejection because it believes Figure 7 and column 24 of Moring disclose all the elements of claim 16. According to the Office, Moring discloses the use of a vertical positioning mechanism comprising springs and fluid cylinders. The Office states that the vertical positioning mechanism is operable in several arrangements including a down or seal position. The Office further states that in the down or seal position, the gaskets are already **compressed by mechanical force** and therefore the application of vacuum would not affect them and move the sample processing unit (emphasis added) (Office Action dated 1/17/07 page 5). Claim 16 recites in part:

**applying a vacuum to said manifold with said vacuum source, whereby said collar is forced into sealing engagement with said base without causing movement of said sample processing unit.**

The claim recites a step whereby the vacuum forces the collar into sealing engagement. The Office, however, admits that Moring teaches a method whereby the mechanical force of the springs and cylinders create the seal. Thus, Applicants believe the steps of the method claim are not anticipated by Moring or any other reference of record. Accordingly, Applicants again request the Office to withdraw the rejection.

### **35 USC §103**

Claims 4 and 22 stand rejected as allegedly obvious in light of Moring in view of Vestal. The Office believes that Moring teaches all the elements of the claims, but admits that none of these references teach a MALDI device as the second device. According to the Office, Vestal teaches a mass spectrometer system for analyzing multiple samples. The Office believes that Vestal discloses a system including a sample plate for holding samples on pins in wells of a plate. The Office concludes it

would have been obvious to combine Vestal with the device of Moring. The Office further states that one would use the plate of Vestal as the collection plate in order to load the collection plate for MALDI analysis of the samples. Applicants respectfully traverse the rejection.

#### **The Prima Facie Case Requirement**

The Patent and Trademark Office (PTO) bears the burden of initially establishing a prima facie case of obviousness. MPEP §2142. MPEP §2143 provides the standard required to establish a prima facie case of obviousness. "First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine what the reference teaches. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references combined) must teach or suggest all the claim limitations." The motivation to make the claimed invention and the reasonable expectation of success must both be found in the prior art, not the applicant's disclosure. *In re Vaeck*, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991). The references must be considered as a whole and must suggest the desirability, and thus the obviousness of making the combination. *Hodosh v. Block Drug Co., Inc.*, 229 U.S.P.Q. 182, 187 n.5 (Fed. Cir. 1986); MPEP § 2141. The Office has not met its burden in establishing a prima facie case of obviousness.

For the reasons set forth above, Moring does not teach or suggest every claim limitation of claim 4 or 22. Vestal does nothing to cure this defect. Accordingly the claims are not prima facie obvious.

#### **Objection**

Applicants submit that the objection to claim 10 is moot in light of the remarks presented above.

#### **CONCLUSION**

In view of the foregoing remarks, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account.

Respectfully submitted

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